

**APPROVED/AMENDED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, February 6, 2012– 7:00 p.m.
TOWN HALL MEETING ROOM # 133**

1. Convene Meeting

Chairman James Vulcano convened the meeting at 7:00 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairman J. Vulcano, Vice Chair J. Goletz, Secretary L. Miller, Alternates S. Fox and G. Hunton

*Chairman Vulcano noted that every member would be a voting member.

Also Present: Wetlands Enforcement Officer K. Daniel, Recording Secretary E. Cole

3. Wetlands Enforcement

K. Daniel stated that 1 High Ridge Road was the main enforcement matter for tonight's meeting.

L. Miller asked the Chairman if it was appropriate to go into executive session before the review of the application. Attorney Olsen stated that since an Executive Session was not on the agenda for tonight's meeting, it would not be appropriate to have an executive session.

K. Daniel stated that there was a submission of an application for 1 High Ridge Road that had been supplied in the after-the-fact packets. K. Daniel stated that she had time to review the application and reported the information in a memo dated February 6, 2012 which she distributed to the Commission. This memo was stamped in and filed as part of the application.

S. Fox made a motion to add agenda item #5a, 1 High Ridge Road #201200069. G. Hunton seconded the motion, and it carried unanimously, 5-0.

5. New Business:

a. 1 High Ridge Road Application #201200069

Attorney Robert Ghent was present on behalf of Affiliated Realty.

Attorney Peter Olsen was present to discuss this matter.

J. Vulcano stated that the Commission has accepted the application, but that is all that has been done.

Attorney Ghent stated that he is trying to have the application accepted. Attorney Ghent stated that there are 266 square feet of area that have been classified as wetlands soils that are underground, and below ground and partially filled already from past construction

activities that have nothing to do with Affiliated Realty. Attorney Ghent stated that the other issue today is that Affiliated Realty came into the Land Use Office to pay the fee and stated that there was some contest between the applicant and staff because the staff wanted to collect an additional corrective action fee above the \$390.00 application fee. Attorney Ghent stated that the current application does not include any activities that are going to lead to restoration. Attorney Ghent asked for a waiver of the corrective action fees.

K. Daniel stated that the check for \$390.00 was received this morning, and the property owner has already filed with the Town of Brookfield a \$500+ building application that was stopped at the wetlands desk and was not able to go forward. K. Daniel stated that these building fees and the \$390 amount would be more than enough to cover the application fees for the Wetlands Commission. K. Daniel reviewed the fees with Attorney Ghent, and stated that since this application is a response to a Cease and Desist order, it is a corrective action fee. K. Daniel also stated that she considers filling the wetlands a significant activity. K. Daniel stated that it would be up to the Commission to determine if the activity is a significant impact.

J. Vulcano stated that he believed that the goal was to have current work already done permitted. Attorney Ghent stated that he believed that the initial goal was to permit the work that has already been done on the property. Attorney Ghent stated that the applicant wanted to include the proposed work with one application and finish the permitting process in one step.

J. Vulcano stated that the Commission does not have much information as to exactly what is proposed on the site.

Attorney Ghent stated that the only work proposed as part of this application is the installation of two concrete platforms to accommodate two twenty-four foot by twenty-four foot garages, one of which is going to be attached to the existing residential structure. The other garage is going to be attached to the existing structure that looks like a one-car garage and is pre-existing on the property.

J. Vulcano clarified that the work will be done in a regulated area, and L. Miller noted that there will also be some filling on the property.

Attorney Ghent stated that the 266 square feet of wetlands to be filled are not involved in the construction of the two garages but are remote.

L. Miller clarified that the applicant is seeking an approval for what has already been done in the past, and is then asking for additional improvements on the property which will then involve the filling of the wetlands.

Attorney Ghent replied that the completed work is also part of the application. Attorney Ghent also stated that the placement of the two garages could be completed without filling the wetlands, but it is so small and in such an inconvenient location that it does not do anything from a value standpoint.

Attorney Ghent stated that most of the soils out around that property, according to the soil scientist, are disturbed soils.

L. Miller stated that the Commission has not been able to walk out onto the property. K. Daniel stated that a walk of the property could be accomplished. Attorney Ghent noted that he hopes this is a resolution of the issues.

Attorney Olsen stated that there is a March 22nd trial date, and he has been working with Attorney Ghent to have as much accomplished before that date as possible. Attorney Olsen stated that he believed it was appropriate to view the application as a collection of regulated activities - work already done, proposed garages, and the filling of the wetlands. Attorney Olsen suggested that the Commission make a determination whether to waive the fee, schedule a public hearing for the matters that the Commission views as significant activities, defer consideration of the non-significant activities until after the Commission has heard the public hearing and have one meeting make a decision about all of the activities.

L. Miller asked that if the Commission agree to waive the fee, if there will be difficulty with the costs of an outside consultant, if hired. Attorney Ghent stated that he has not discussed that matter with his client, and L. Miller suggested that Attorney Ghent discuss that matter with his client.

Attorney Ghent stated that the waiver of the fees would aid to move the application forward.

L. Miller suggested that the Commission waive the fee for the corrective action, but do not waive any future fees for the hiring of a consultant. L. Miller also suggested that the Commission schedule a public hearing and a meeting for a site walk on the property, which is consistent with the way the Commission has done things in the past. L. Miller stated that this is a compromise for Attorney Ghent and his client, and the Commission does need some expert advice about the application.

Dr. Zaky was present in the audience. He stated this was unacceptable, and that he would not pay any expert fees that the Commission would hire.

Attorney Olsen suggested that the Wetlands Commission set a public hearing for the February 27th meeting. He noted that there is a trial date for March 22nd and he is trying to get the issues resolved before that trial date. Attorney Olsen suggested that within the three weeks before the public hearing, the Commission gives a list of suitable experts with fee amounts for the applicant. The applicant would then need to pay those fees and the public hearing fee. Attorney Olsen stated that if these steps are not accomplished in time for the public hearing, the application may possibly be denied.

L. Miller made a motion to waive the corrective action fee on this application. S. Fox seconded the motion, and it carried unanimously, 5-0.

L. Miller made a motion to schedule a public hearing on February 27th at 8:00 PM and a site walk on March 3rd at 9AM and in the interim, the Commission will make some recommendations of experts to Attorney Olsen as to wetlands scientists and engineers to review the application. G. Hunton seconded the motion, and it carried unanimously, 5-0.

K. Daniel stated that she has a list of experts that the Commission deems as acceptable. Attorney Olsen stated that the selection of experts should be the Commission's choice but to offer a list of suitable experts leaves some options open in case the preferred expert is not available. The Commission briefly reviewed the list. K. Daniel stated that her goal when compiling this list was to offer a list of suitable experts and also to give the applicant some options.

L. Miller stated that, in his opinion, Mr. Virbickas and Mr. Hayden are the most reasonable from this list.

L. Miller made a motion to move to enforcement. S. Fox seconded the motion, and it carried unanimously, 5-0.

The Commission moved to Old Business.

4. Old Business:

a. 540 Federal Road #201101026: Water Storage Tank Water Main (*dec date 02/15/12*)

1. Letter from S. Sullivan to the Brookfield Inland Wetlands Commission dated 01/30/12 Re: Water Storage Tank #201101026 Oak Meadows – 540 Federal Road

S. Fox stated that the Commission has no response from anyone and nothing new to review as part of this application.

K. Daniel stated that the applicant asked that the Commission continue the application to the next meeting.

L. Miller asked if this is the correct applicant, and stated that he is concerned about any legal issues.

L. Miller had a question about the state statutes regarding as-of-right of water companies, and if that State statute also applied to Towns. L. Miller suggested that this information be put on record and asked who the Commission should consult with. K. Daniel suggested that this information be discussed with Marty Handshy or the water company.

K. Daniel suggested that the Commission review the regulations on what a significant proposed activity may be in light of the proposal for the roadway of the hillside to the tank. K. Daniel noted that the Commission has sixty five days to decide if the activity is significant and to decide if a public hearing needs to be set.

K. Daniel noted that in Attorney Jeff Sienkiewicz’s opinion, because the applicant is the Town of Brookfield, the installation of the water equipment – the line, the pump – that these activities are not exempt. J. Vulcano stated that he believes that this is because there is no well. K. Daniel suggested whether the road itself is a significant activity – will it change or influence the dynamics of a water course system, will it have the potential to cause turbidity.

J. Vulcano made a motion to continue 540 Federal Road. S. Fox seconded the motion, and it seconded unanimously, 5-0.

The Commission noted the 65-day extension request.

b. 101 Obtuse Hill Road #201101098: 8-lot subdivision – “Whispering Glen Section II” (dec date 03/14/12)

Peter Young, representing Finmark Custom Homes, LLC was present to discuss the application.

L. Miller recused himself from this matter.

J. Vulcano noted the letter in the after-the-fact packet from Jane Miller dated February 3, 2012 and read the letter for the Commission and the audience.

S. Fox stated that she was at the site today. She stated that it looks like there have been huge changes from the original plan to the wetlands. S. Fox stated that she was looking at lot one where the road looks like it had been filled in and there is proposed work right on the border of the brook. S. Fox stated that she also looked at lot 12 and how the house is going to fit in and how much fill would be needed is not clear to her yet, and there is a lot of water that will come through lot 12. S. Fox stated that lot 5, 6, 7 have been taped for where the homes are proposed and the pool had wetlands flagging that has been removed. S. Fox stated that she did not get to lot 11.

J. Vulcano stated that Phase 1 had some struggles and there were some issues with the basins. J. Vulcano stated that now there are seven other potential locations. J. Vulcano stated that he would like to see the Commission take the time to review this application as a whole to make sure that there are not more problems that need to be corrected in the future.

Mr. Young stated that the drainage calculations dated 2008 take into consideration the built and proposed homes as well as any other construction on the property. Mr. Young stated that nothing has been changed between the two drawings in reference to the wetlands. Mr. Young also stated that the detention basins have been increased in volume, because the Town Engineer recommended that they be increased. Mr. Young stated that he could not find any records as to survey data regarding the increase in the catch basins.

Mr. Young stated that he had the surveyor go out and re-shoot the basins to show the

work that had already been done. Artel Engineering is creating a new as-built drainage calculation showing pre-development and post-development run-off. Also, the drainage calculation can be revised with the new site plan. Mr. Young stated that he will have the as-built drainage calculations for the next meeting.

Mr. Young stated that lots 5, 9, 11, 12 have outstanding wetlands permits that are still valid. Mr. Young stated that lot 9 has a house on it, and also has a building permit that has been updated. The lots were permitted in 2007.

S. Fox made a motion to set a public hearing for 101 Obtuse Hill Road #201101098 for March 12th at 8PM. G. Hunton seconded the motion, and it carried unanimously, 4-0.

Mr. Young clarified with the Commission that he should notify the abutters of the public hearing, and J. Vulcano agreed.

K. Daniel stated that she checked the regulations and that for the wetlands commission, the applicant does not need to notify the abutters; the legal notice is sufficient.

J. Vulcano made a motion to continue 101 Obtuse Hill Road. S. Fox seconded the motion, and it carried unanimously, 5-0.

- c. **4 Joseph's Lane #201200057: Pool and Patio (dec date 03/28/12)**
 - 1. **Letter from J. Bruno to K. Daniel dated 01/31/12 Re: 4 Joseph's Lane Wetlands Application**
 - 2. **Proposed Construction Sequence for 4 Joseph's Lane, Brookfield, January 2012**
 - 3. **Sheet 1 – Pool Project January 2012 revised with notes originally prepared by CCA, LLC dated 06/11/09**

John Bruno and Pat McDougall from Newtown Pools was present on behalf of the applicant.

S. Fox stated that she was out at the property today, and she noticed the PVC foundation drains. She stated that she saw three pipes coming out from the house.

J. Bruno stated that those drains are two footing drains, a liter drain, and he believed another may be a radon drain. J. Bruno stated that he believed two were roof drains and two were footing drains. S. Fox showed the pictures she took of the drains to the other Commissioners. S. Fox noted that they are approximately 4" PVC pipe.

S. Fox also noted that there was some sloping toward the back of the property; she stated that it looked like it was slumping the fill near the proposed wall. L. Miller stated that there were wetlands by the proposed wall.

L. Miller asked J. Bruno if he anticipates to hit any ledge. L. Miller stated that he noticed a lot of outcroppings of rock. J. Bruno stated that they will not be going into the ground

deeper than four to five feet.

J. Vulcano asked for clarification from the distance of the patio to the proposed wall. The Commission reviewed the plan. J. Bruno stated that the edge of the patio to the wall is approximately seven feet.

Mr. McDougall stated that the silt fence was approximately twenty feet to the edge of the pool, and about sixteen feet to the edge of the sidewalk. The Commission reviewed the plan with the applicant.

J. Vulcano asked how much fill would be needed. Mr. McDougall stated that their intent is to try to maintain the elevation. The elevation difference is about three to four feet, and is relatively flat.

Mr. McDougall stated that the pool is constructed of steel wool with poured concrete footings, and could be filled with no dirt against the wall and still hold water.

L. Miller stated that there should be some landscape fabric planted behind the wall as well as some rip-rap or a rain garden on the site.

L. Miller stated that the footing drains should be reverted into one area and the applicant could possibly create either a berm or a rain garden. L. Miller stated that native species plantings could be done to create a buffer. J. Vulcano suggested some plantings on the back side of the wall. The Commission agreed to this idea.

L. Miller made a motion to approve 4 Joseph's Lane Application #201200057 for the construction of a pool and patio in accordance with the site plan original drawing prepared by CCA dated June 11, 2009 Acad #09779P, that the construction of the pool and the patio be in accordance with the construction sequence as attached to the site plan, dated January 31, 2012. Before any construction is to begin, the applicant will install proper silt fencing and other erosion controls in accordance with the State statutes and contact the Wetlands Enforcement Officer to come out and inspect the property before doing any work. The approval is contingent upon the following modifications: Any existing drainage, whether liter, roof or footing drains would be joined and re-routed to the southwestern side of the property and that the discharge would go into the construction of a rain garden and that the applicant consult the Land Use Office for proper construction of a rain garden. With regard to the three foot high boulder wall that would be to the western side of the pool, that landscape fabric be constructed to hide that boulder wall and to prevent the erosion of soil and seep holes. On either side of the wall and the wetlands, the installation of native species that are indigenous to wetlands be planted. The Commission recommended woody species – approximately one every five feet. Once the applicant determines what plants they will be planting, the homeowner needs to post a bond to equal the cost of the plantings plus ten percent and to ensure a three-year survivability rate. S. Fox noted that none of the construction sequence allows any work in the wetland. S. Fox seconded the motion, and it carried unanimously, 5-0.

L. Miller stated that the applicant should consult with the Wetlands Enforcement Officer to determine which plantings would be best for that area.

The applicant and the Commission revised the plan.

d. Nomination of Officers for the 2012 Calendar Year

L. Miller nominated James Vulcano for the position of Chairman, and J. Goletz seconded the motion. The motion carried unanimously, 3-0, with S. Fox and G. Hunton abstaining.

J. Goletz nominated L. Miller for the position of Vice Chair. J. Vulcano seconded the motion, and it carried unanimously, 3-0, with S. Fox and G. Hunton abstaining.

J. Goletz will not be returning, and did not wish to be re-nominated for the position of Vice Chair.

6. **Tabled Items:** None at this meeting.

7. **Correspondence:**

1. **Minutes of Other Boards & Commissions: 01/19/12, 01/27/12 special Planning; 01/26/12 Zoning**
2. **Letter from M. Washburn to the Inland Wetlands Commission dated Winter 2011 Re: Society of Soil Scientists of Southern New England (two directories on cart)**

No discussion/no motions

8. **Review Minutes of Previous Meetings: 01/23/12**

S. Fox made a motion to approve the minutes of the 01/23/12 meeting as submitted. L. Miller seconded the motion, and it carried unanimously, 5-0.

9. **Informal Discussion:** No informal discussion matters at this meeting.

10. **Adjourn**

L. Miller made a motion to adjourn at 8:38 PM. S. Fox seconded, and the motion carried unanimously, 5-0.